

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 22-474 (ADC)

[5] SERGIO RODRIGUEZ-RODRIGUEZ,

Defendant.

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION
RE: RULE 11(c)(1)(B) GUILTY PLEA HEARING

I. Procedural Background:

On November 3, 2022, defendant Sergio Rodriguez-Rodriguez was charged in a multi-defendant and multi-count indictment. (Docket No. 16). He agreed to plead guilty to Count Three of said indictment.

Count Three charges that from on or about October of 2022 and continuing up and until on or about November 1, 2022, in the District of Puerto Rico and within the jurisdiction of this Court, Mr. Rodriguez-Rodriguez, and other members of the conspiracy, did knowingly and intentionally, combine, conspire, and agree with each other and with diverse other persons known and unknown to the Grand Jury, to commit an offense against the United States, that is, to knowingly and intentionally distribute 500 grams or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) & (b)(1)(B)(ii), and 846.

1 Defendant appeared before me, assisted by the court interpreter, on April 22,
2 2025, after the Rule 11 hearing was referred to me by the Presiding District Judge. *See*
3 *United States v. Woodard*, 387 F.3d 1329 (11th Cir. 2004) (magistrate judge had
4 authority to conduct Rule 11 guilty plea hearing with consent of defendant). He was
5 advised of the purpose of the hearing and placed under oath with instructions that his
6 answers must be truthful lest he subject himself to possible charges of perjury or making
7 a false statement.
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9 **II. Consent to Proceed Before a Magistrate Judge:**

10 Defendant was provided with a Waiver of Right to Trial by Jury form, which he
11 signed.¹ He was advised of his right to hold all proceedings, including the change of plea
12 hearing, before a district court judge. He received an explanation of the differences
13 between the scope of jurisdiction and functions of a district judge and a magistrate judge.
14 He was informed that if he elected to proceed before me, a magistrate judge, that I would
15 conduct the hearing and prepare a report and recommendation, subject to review and
16 approval of the district judge. The defendant then voluntarily consented to proceed
17 before me.
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20 **III. Proceedings Under Rule 11 of the Federal Rules of Criminal**
21 **Procedure:**

22 Rule 11 of the Federal Rules of Criminal Procedure governs the acceptance of
23 guilty pleas to federal criminal violations. Pursuant to Rule 11, in order for a plea of guilty
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27 ¹ The form entitled Consent to Proceed Before a United States Magistrate Judge in a Felony Case for
28 Pleading Guilty (Fed. R. Crim. P. 11) and Waiver of Jury Trial, signed and consented by both parties is
made part of the record.

1 to constitute a valid waiver of the defendant's right to trial, the guilty plea must be
2 knowing and voluntary. *United States v. Hernandez-Wilson*, 186 F.3d 1, 5 (1st Cir. 1999).
3 "Rule 11 was intended to ensure that a defendant who pleads guilty does so with an
4 'understanding of the nature of the charge and consequences of his plea.'" *United States*
5 *v. Cotal-Crespo*, 47 F.3d 1, 4 (1st Cir. 1995) (quoting *McCarthy v. United States*, 394 U.S.
6 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of
7 coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the
8 guilty plea. *Cotal-Crespo*, 47 F.3d at 4 (citing *United States v. Allard*, 926 F.2d 1237, 1244
9 (1st Cir. 1991)).
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12 **A. Competence to Enter a Guilty Plea**

13 I questioned the defendant about his age, education, employment, history of any
14 treatment for mental illness or addiction, use of any medication, drugs, or alcohol, and
15 his understanding of the purpose of the hearing, all in order to ascertain his capacity to
16 understand, answer and comprehend the change of plea colloquy. I confirmed that the
17 defendant received the indictment and fully discussed the charges with his attorney and
18 was satisfied with the advice and representation he received.
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20 In addition, I further inquired whether defendant's counsel or counsel for the
21 government had any doubt as to his capacity to plead, receiving answers from both that
22 the defendant was competent to enter a plea. After considering the defendant's
23 responses, and observing his demeanor, a finding was made that Mr. Rodriguez-
24 Rodriguez was competent to plead and fully aware of the purpose of the hearing.
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B. Maximum Penalties

Upon questioning, the defendant expressed his understanding of the maximum and minimum penalties prescribed by statute as charged for the offense to which he was pleading guilty, namely for Count Three: a term of imprisonment of shall not less than five (5) years, a fine not to exceed five million dollars (\$5,000,000.00), and a supervised release term of at least three (3) years in addition to any term of incarceration.

However, based on the stipulated and agreed to amount of narcotics possessed by the defendant, that is, at least 100 grams but less than 200 grams of cocaine, the defendant was told and understood that he faces a term of imprisonment of no more than twenty (20) years, a fine not to exceed one million dollars (\$1,000,000.00), and a supervised release term of at least three (3) years in addition to any term of incarceration.

The defendant also understood that a Special Monetary Assessment of \$100.00 would be imposed, to be deposited in the Crime Victim Fund, pursuant to Title 18, United States Code, Section 3013(a). The court explained the nature of supervised release and the consequences of revocation. The defendant indicated that he understood the maximum and minimum penalties for Count Three and the potential consequences of the guilty plea.

C. Plea Agreement

Mr. Rodriguez-Rodriguez was shown his plea agreement, and the plea agreement supplement, which are part of the record, and identified his initials and signatures. He confirmed that he had the opportunity to read and discuss the plea agreement with his attorney before he signed it, that it represented the entirety of his understanding with

1 the government, that he understood its terms, and that no one had made any other or
2 different promises or assurances to induce him to plead guilty.

3 The defendant was then admonished, pursuant to Fed. R. Crim. P. 11(c)(1)(B) and
4 expressed his understanding that the terms of the plea agreement are merely
5 recommendations to the court, and that the district judge who will preside over the
6 sentencing hearing can reject the recommendation without permitting the defendant to
7 withdraw his guilty plea, and impose a sentence that is more severe than the defendant
8 might anticipate. The defendant was specifically informed that the court, after
9 considering the applicable Sentencing Guidelines, could impose a sentence different
10 from any estimate in the plea agreement or provided by his attorney, and that the court
11 had the authority to impose a sentence that is more severe or less severe than the
12 sentence called for by the Sentencing Guidelines. The defendant was advised, and
13 understood, that the Sentencing Guidelines are no longer mandatory and are thus
14 considered advisory, and that during sentencing the court will consider the sentencing
15 criteria found at Title 18, United States Code, Section 3553(a).

16 The defendant was advised that under some circumstances he or the government
17 may have the right to appeal the sentence the court imposes, but that pursuant to the
18 plea agreement the defendant will waive his right to appeal both his sentence and his
19 conviction if the court adopts the plea agreement and sentences, him according to its
20 terms and conditions.

21 **D. Waiver of Constitutional Rights**

22 The defendant was specifically advised that he has the right to persist in a plea of
23 not guilty, and if he does so persist that he has the right to a speedy and public trial by
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1 jury, or trial before a judge sitting without a jury if the court and the government so agree;
2 that at trial he would be presumed innocent and the government would have to prove his
3 guilt beyond a reasonable doubt; that he would have the right to the assistance of counsel
4 for his defense, and if he could not afford an attorney the court would appoint one to
5 represent him throughout all stages of the proceedings; that at trial he would have the
6 right to hear and cross examine the government's witnesses, the right to decline to testify
7 unless he voluntarily elected to do so, and the right to the issuance of subpoenas or
8 compulsory process to compel the attendance of witnesses to testify. He was further
9 informed that if he decided not to testify or put on evidence at trial, the failure to do so
10 could not be used against him, and that at trial the jury must return a unanimous verdict
11 before he could be found guilty or not guilty.
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14 The defendant specifically acknowledged understanding these rights and
15 understanding that by entering a plea of guilty there would be no trial and he will be
16 waiving or giving up the rights I explained.
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18 The defendant was informed that parole has been abolished and that any sentence
19 of imprisonment must be served, and that his guilty plea may result in loss of important
20 civil rights, such as the right to vote, to hold public office, to serve on a jury, and to
21 possess a firearm. The defendant confirmed that she understood these consequences of
22 the guilty plea.
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24 **E. Factual Basis for the Guilty Plea**

25 Defendant was read in open court Count Three of the indictment and provided an
26 explanation of the elements of the offense. The meaning of terms used in the indictment
27 was also explained.
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1 Upon questioning, the defendant admitted to facts constituting all of the elements
2 of the offense charged in Count Three and that the evidence the government had
3 available to establish, in the event defendant elected to go to trial, the defendant's guilt
4 beyond a reasonable doubt.
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6 **F. Voluntariness**

7 The defendant indicated that he was not being forced to plead guilty but was
8 entering such a plea freely and voluntarily because in fact he is guilty, and that no one
9 had threatened him or offered a thing of value in exchange for his plea. He acknowledged
10 that no one had made any different or other promises in exchange for his guilty plea,
11 other than the recommendations set forth in the plea agreement. Throughout the hearing
12 the defendant was able to consult with his attorney.
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14 **IV. Conclusion:**

15 The defendant, by consent, appeared before me pursuant to Rule 11 of the Federal
16 Rules of Criminal Procedure, and entered a plea of guilty as to Count Three of the
17 indictment. After cautioning and examining the defendant under oath and in open court
18 concerning each of the subject matters mentioned in Rule 11, I find that the defendant,
19 Sergio Rodriguez-Rodriguez is competent to enter this guilty plea, is aware of the nature
20 of the offense charged and the maximum statutory penalties that it carries, understands
21 that the charge is supported by evidence and a basis in fact, has admitted to the elements
22 of the offense, and has done so in an intelligent and voluntary manner with full
23 knowledge of the consequences of his guilty plea. Therefore, I recommend that the court
24 accept the guilty plea and that the defendant be adjudged guilty as to Count Three of the
25 indictment.
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1 This report and recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B) and
2 Rule 72(d) of the Local Rules of this Court. Any objections to the same must be specific
3 and must be filed with the Clerk of Court **within 14 days**. Failure to file timely and
4 specific objections to the report and recommendation is a waiver of the right to appellate
5 review. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Davet v. Maccorone*, 973 F.2d 22,
6 30–31 (1st Cir. 1992); *Paterson-Leitch Co. v. Mass. Mun. Wholesale Elec. Co.*, 840 F.2d
7 985 (1st Cir. 1988); *Borden v. Sec’y of Health & Human Servs.*, 836 F.2d 4, 6 (1st Cir.
8 1987).

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10 **IT IS SO RECOMMENDED**

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12 In San Juan, Puerto Rico this 22nd day of April, 2025.

13 S/Héctor L. Ramos-Vega
14 HÉCTOR L. RAMOS-VEGA
15 UNITED STATES MAGISTRATE JUDGE
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